

Appl. No. 09/700,561
Atty. Docket No. AA315X
Amdt. dated February 1, 2006
Reply to Office Action of Nov. 1, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1, 4, 5 and 7-10 are pending in the present application and stand rejected under 35 U.S.C. § 102.

Claim 1 has been amended to point out particular features of the invention described in the application which even more clearly distinguish it from the cited prior art. Support for this amendment is found *inter alia* in Fig. 6 and pages 16-17 of the specification. No new matter has been introduced.

Rejection Under 35 USC §102 Over Van Gompel et al.

Claims 1, 4, 5, and 7-10 have been rejected under 35 U.S.C. § 102(b) over Van Gompel et al. (EP 0 547 497). Because Amended Claim 1 does not teach or disclose each and every feature of Amended Claim 1, this rejection should be withdrawn.

The Applicants expressly note that they do not necessarily agree with the Office Action's characterization of the Van Gompel et al. patent or its application of the Van Gompel et al. disclosure to the instant claims. Nevertheless, in an effort to advance prosecution and to obtain timely allowance of an embodiment of the invention of interest Claim 1 has been amended to more clearly point out features in combination not shown in the Van Gompel et al. document. Amended Claim 1 requires in combination a continuous waistband panel which is a separate element from and disposed so as not to overlap the side panels. The side panels are elastomeric over substantially their entire extent (from leg opening to waist panel edge) and have a larger lateral dimension at the leg opening edge than at the waist panel edge. This last feature in particular is the opposite relationship to that shown in the Van Gompel et al. document. The desirability of such structure is discussed in the instant specification *inter alia* on pages 16 and 17. Because the Van Gompel et al. document both does not disclose this feature and in fact teaches away from this feature in combination with the remaining claim features, Amended Claim 1 is patentable over this document. Claims 4, 5 and 7-10 all depend from Amended Claim 1 and are patentable over the Van Gompel et al. document for at least the reasons given above with respect to Amended Claim 1.

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Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 4, 5, and 7-10 is respectfully requested.

Respectfully submitted,

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